

95 1341308

Recording Requested By: Phibro-Tech, Inc.

When Recorded, Mail Certified Copy to:

Jose Kou  
California EPA  
Department of Toxic Substances Control, Region 3  
1011 N. Grandview Avenue  
Glendale, California 91201

RECORDED/FILED IN OFFICIAL RECORDS  
RECORDER'S OFFICE  
LOS ANGELES COUNTY  
CALIFORNIA

1:21 PM AUG 16 1995

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NOTICE  
TO RESTRICT USE OF PROPERTY

This Notice is made on the 16th day of August, 1995, by First Dice Road Company, a California Limited Partnership, who is the owner of record ("Owner") of certain property situated in the City of Santa Fe Springs, County of Los Angeles, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference ("the Property"), with reference to the following facts:

- A. This Property, as described in Exhibit "A", is the real property known as Phibro-Tech, Inc. (a.k.a. Southern California Chemical, a.k.a. Entech Recovery, Inc.) located at 8851 Dice Road, Santa Fe Springs, County of Los Angeles, California, contains hazardous substances.
- B. The Property is located in an industrial area of the City of Santa Fe Springs and has been used for a railroad switching station, foundry casting facility and chemical manufacturing. Ground water in the present uppermost saturated zone beneath the Property, identified as the Hollydale Aquifer, contains elevated levels of: (1) heavy metals, including chromium and cadmium, (2) halogenated volatile organic compounds (VOCs), including trichloroethylene (TCE) and 1,2-dichloroethane (1,2-DCA), (3) aromatic VOCs, including toluene, ethylbenzene and xylenes and (4) chlorides. The soils at the Property contain elevated levels of (1) heavy metals, including lead, cadmium, chromium, copper, and zinc, (2) halogenated VOC's, including TCE, 1,2-DCA and tetrachloroethene (PCE), (3) aromatic VOC's, including benzene, toluene, ethylbenzene and xylenes, (4) polychlorinated biphenyls (PCBs), (5) petroleum hydrocarbons, including diesel fuel, gasoline and an unidentified heavy hydrocarbon believed to be crude oil, and (6) chlorides. The contaminated soils extend throughout the Property and have been covered with paving.
- C. The Owner desires and intends that in order to protect the present and future human health and environment, the Property shall be used in such a manner as to avoid potential harm to persons or property which may result from hazardous substances in the soil and ground water at the Property.

ARTICLE I

GENERAL PROVISIONS

1.01. Provisions to Run With the Land. This Notice sets forth protective provisions, restrictions, and conditions, (collectively referred to as "Restrictions"), upon and subject to which the Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, or conveyed. Each and all of the Restrictions shall run with the land, and pass with each and every portion of the Property, and shall apply to and bind the respective successors in interest thereof. Each and all of the Restrictions are imposed upon the entire Property unless expressly stated as applicable to a specific portion of the Property. Each and all of the Restrictions are imposed

pursuant to Section 25202.5(a) (2) of the Health and Safety Code. Each and all of the Restrictions are enforceable by the California EPA, Department of Toxic Substances Control and any and all successor agencies, if any, to the Department of Toxic Substances Control.

1.02 Concurrence of Owners Presumed. All purchasers, lessees, or possessors of any portion of the Property shall be deemed by their purchase, leasing, or possession of such Property, to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions as herein established must be adhered to for the benefit of future Owners and Occupants and that their interest in the Property shall be subject to the Restrictions contained herein.

1.03 Incorporation Into Deeds and Leases. Owner desires and covenants that the Restrictions set out herein shall be incorporated by reference in each and all deeds and leases of any portion of the Property.

## ARTICLE II

### DEFINITIONS

2.01 Department. "Department" shall mean the California Environmental Protection Agency, Department of Toxic Substances Control and shall include its successor agencies, if any.

2.02 Improvements. "Improvements" shall mean construction of any buildings, foundations, roads, driveways, tanks, or paved parking areas upon any portion of the Property.

2.03 Occupants. "Occupants" shall mean those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to occupy any portion of the Property.

2.04 Owner. "Owner" shall mean the owner or its successors in interest, including heirs, and assigns, who hold title to all or any portion of the Property.

## ARTICLE III

### DEVELOPMENT, USE, AND CONVEYANCE OF THE PROPERTY

3.01 Restrictions on Use. The Owner will restrict the use of the Property as follows:

- A. The Property at 8851 Dice Road shall not be used for residences, hospitals, schools, day-care centers, parks, playgrounds and any permanently occupied human habitation, including but not limited to, hotels or motels which could be used as a residence for employees, unless the Owner can adequately demonstrate that such use will not endanger human health or the environment. The Owner must receive written permission from the Department, City of Santa Fe Springs Planning Department and the Los Angeles County Health Department prior to using any portion of the Property for any of the uses described in this paragraph.
- B. No domestic use of the shallow ground water (Hollydale Aquifer) beneath the Property shall be allowed, unless the Owner can adequately demonstrate that the ground water meets applicable drinking water standards. The Owner must receive written permission from the Department, City of Santa Fe Springs Planning Department and Los Angeles County Health Department prior to using water from the Hollydale Aquifer (50 to 120 feet deep) for domestic purposes.
- C. The Property shall remain fully paved for any commercial or industrial use, unless the Owner can adequately demonstrate to the

Department that disturbance of the paving will not result in the creation of an unacceptable risk to human health or the environment, or is necessary to reduce an imminent threat to human health or the environment. The Owner shall notify the Department in writing at least 21 calendar-days prior to removing any part of the site cover pavement. The Owner must receive written permission from the Department prior to removing any pavement in an area to be left unpaved for more than a three month period. The Owner shall provide a temporary cover for any area where the pavement has been removed and that will remain uncovered for greater than 14 calendar-days or if a rainstorm threatens to cause infiltration into or run-off from the unpaved area(s).

- D. The Owner shall ensure that any construction work on the Property reduce excavation and earth moving activities such that disturbance of contaminated soils are minimized. The Owner shall ensure that adequate health and safety plans are developed and followed during any construction activities involving excavation or earth moving such that workers are adequately protected from exposure to contaminated soils.
- E. The Owner shall notify the Department in writing at least 21 calendar-days prior to excavating or removing any soils from the Property. The notice shall indicate the purpose of the excavation, state the approximate volume of soil to be excavated, describe how the excavated soil will be managed, indicate how long excavated soils will be piled on the Property, indicate what analytical testing will be performed on the excavated soil and include an appropriately scaled map showing the location of the proposed excavation and where excavated soils will be piled. At a minimum, the Owner shall perform analytical tests on any excavated soil that will be removed from the Property and determine if the soil is a hazardous waste. Any material that is a hazardous waste shall be managed as such by following the applicable Department regulations. Excavated soils shall be managed in a manner that is protective of human health or the environment. If the Department determines that immediate action is required, the Department may orally authorize the Owner to act prior to receiving the Owner's written notification.
- F. The Owner shall inspect and maintain the site cover (paving) in a manner that prevents infiltration of liquids into subsurface soils.

3.02 Conveyance of Property. The Owner shall provide a thirty (30) day advance notice to the Department of any sale, lease, or other conveyance of the Property or an interest in the Property to a third person. The Department shall not, by reason of this Notice, have authority to approve, disapprove, or otherwise affect any sale, lease, or other conveyance of the Property except as otherwise provided by law or by an administrative order.

3.03 Enforcement. Failure of the Owner to comply with any of the requirements, as set forth in paragraph 3.01, shall be grounds for the Department to require that the Owner modify or remove any Improvements constructed in violation of this Notice. Violation of this Notice shall be grounds for the Department to file civil and criminal actions against the Owner as provided by law.

3.04 Notice in Agreements. All Owners and Occupants shall execute a written instrument which shall accompany all purchase, lease, sublease, or rental agreements relating to the Property. The instrument shall contain the following statement:

"The land described herein contains hazardous substances. Such condition renders the land and the owner, lessee, or other possessor of the land subject to the requirements, restrictions, provisions, and liabilities contained in Chapters 6.5 and Chapter 6.8 of

Division 20 of the Health and Safety Code. This statement is not a declaration that a hazard exists."

#### ARTICLE IV

##### VARIANCE AND TERMINATION

4.01 Variance. Any Owner or, with the Owner's consent, any occupant of the Property or any portion thereof may apply to the Department for a written variance from the provisions of this Notice. Such application shall be made in accordance with Section 25233, Health and Safety Code.

4.02 Termination. Any owner of the Property may apply to the Department to modify or remove the restrictions contained in this Notice as they apply to all or any portion of the Property. Such application shall be made in accordance with Section 25202.6, Health and Safety Code.

4.03 Term. Unless terminated in accordance with paragraph 4.02 above, by law or otherwise, this Notice shall continue in effect in perpetuity.

#### ARTICLE V

##### MISCELLANEOUS

5.01 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property or any portion thereof to the general public or for any purposes whatsoever.

5.02 Notices. Whenever any person shall desire to give or serve any notice, demand, or other communication with respect to this Notice, each such notice, demand, or other communication shall be in writing and shall be deemed effective [1] when delivered, if personally delivered to the person being served or to an officer of a corporate party being served or official of a government agency being served, or [2] three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested:

To: First Dice Road Company, Attention: Janice Christian  
8851 Dice Road  
Santa Fe Springs, CA 90670-0118

5.03 Partial Invalidity. If any portion of this Notice is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such invalid portion had not been included herein.

5.04 Article Headings. Headings at the beginning of each numbered article of this Notice are solely for the convenience of the reader and are not a part of the Notice.

5.05 Recordation. This instrument shall be executed by the Owner. This instrument shall be recorded by the Owner in the County of Los Angeles within fourteen (14) days from the effective date of the permit modification for the state hazardous waste management permit (State Hazardous Waste Permit No. 91-3-TS-002).

5.06 References. All references to Code sections include successor provisions.

IN WITNESS WHEREOF, the Owner executes this Notice as of the date set forth below.

OWNER

FIRST DICE ROAD COMPANY

a California Limited Partnership

By: Western Magnesium Corp., a California Corporation,  
its General Partner

By: 

Title: Controller

Date: 8-16-95

## EXHIBIT "A"

## PROPERTY DESCRIPTION AND FACILITY LOCATION MAP

The property referred to in this Notice is situated in the County of Los Angeles, State of California, and is described as follows:

Parcel 1 of Parcel Map 16589, as per map thereof, recorded in Book 181 of Maps, Page 76, in the Office of the County Recorder of Los Angeles County.

Also, that portion of Dice Road as shown on Parcel Map No. 16589, in the City of Santa Fe Springs, County of Los Angeles, State of California, filed in Book 181, Page 76 of Parcel Maps, in the Office of the County Recorder of said county as described in the deed to the City of Santa Fe Springs; recorded July 26, 1968, as instrument No. 2723 of official records of said county bounded in the north by the easterly prolongation of that certain course in the northerly boundary of said Parcel Map No. 16589 as having a bearing and length of "north 78 degrees 35 minutes 00 seconds west 349.97 and bounded on the south by the easterly prolongation of the southerly line of said Parcel Map No. 16589."

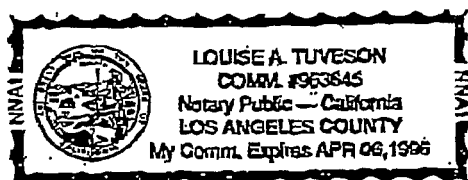
Except therefrom the property hereby conveyed that portion thereof lying below a depth of 500 feet, measured vertically, from the contour of the surface of said property; however, grantor, or its successors and assigns, shall not have the right for any purpose whatsoever to enter upon, into or through the surface of said property or any part thereof lying between said surface and 500 feet below said surface, as shown in deed recorded October 24, 1985, as Instrument No. 85-1254948.

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

State of CaliforniaCounty of Los AngelesOn August 16, 1995 before me, Louise A. Tuveson, Notary Public  
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"personally appeared Janice Christian  
NAME(S) OF SIGNER(S)

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

*Louise A. Tuveson*  
SIGNATURE OF NOTARY

## OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

## CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL  
☐ CORPORATE OFFICER

TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED  
☐ GENERAL  
☐ ATTORNEY-IN-FACT  
☐ TRUSTEE(S)  
☐ GUARDIAN/CONSERVATOR  
☐ OTHER: \_\_\_\_\_

SIGNER IS REPRESENTING:  
 NAME OF PERSON(S) OR ENTITY(IES)

## DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

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